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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/630,020

07/30/2003

Matthew Crewe

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RENNER OTTO BOISSELLE & SKLAR, LLP  
1621 EUCLID AVENUE  
NINETEENTH FLOOR  
CLEVELAND, OH 44115

EXAMINER

WHIPPLE, BRIAN P

ART UNIT

PAPER NUMBER

2152

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/630,020	<b>Applicant(s)</b> CREWE, MATTHEW	
	<b>Examiner</b> Brian P. Whipple	<b>Art Unit</b> 2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

1. Claims 1-19 are pending in this application and presented for examination.

***Response to Arguments***

2. Applicant's arguments, see page 5, filed 5/30/08, with respect to the drawings have been fully considered and are persuasive. The objections of the drawings have been withdrawn.
3. Applicant's arguments, see pages 5-6, filed 5/30/08, with respect to the specification have been fully considered and are persuasive. The objection of the specification has been withdrawn.
4. Applicant's arguments, see pages 6-7, filed 5/30/08, with respect to the 35 U.S.C. 112 have been fully considered and are persuasive. The 35 U.S.C. 112 of the corresponding claims have been withdrawn.
5. Applicant's arguments with respect to the 35 U.S.C. 101 rejections, see page 7, have been considered but are moot in view of the new ground(s) of rejection.

6. Applicant's arguments filed 5/30/08, with respect to the 35 U.S.C. 103 rejection of claim 1 have been fully considered but they are not persuasive.

7. As to claim 1, Applicant argues Cooke does not disclose a medical-imaging visualization application. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

8. As to claim 1, Applicant argues Brandt does not disclose a model-view-controller software architecture. Examiner respectfully disagrees. Brandt discloses a model-view-controller software architecture in that Brandt shows controlling a hierarchal order of different preference files, or models, depending on the characteristics associated with a user or users, or views (Fig. 2; Col. 9, ln. 9-25). That is, the level at which a user operates in a network may be seen as the user's view of the network, as one example. The different preference files (lower level vs. higher level) may be seen as different models for operation in the network.

9. As to claim 1, Applicant argues Brandt does not disclose an interface having a set of user interface control parameters and a set of data handling parameters. Examiner respectfully disagrees. Brandt has an interface having a set of user interface control parameters (Brandt: Col. 9, ln. 18-21) and a set of data handling parameters (Brandt: Col. 5, ln. 45-48).

10. As to claim 14, Applicant argues the meaning of "high-level software" and "lower-level software", but Applicant is directed to claim 14 which does not claim "high-level software" or "lower-level software", but rather "high-level software component" and "lower-level software component". The preference manager of Brandt has different high-level and lower-level software components (Fig. 2; Col. 9, ln. 9-14) and the version of the preference manager will differ based on the various implementations of these high and lower level software components.

***Claim Rejections - 35 USC § 112***

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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12. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

13. As to claims 1-5, it is unclear how a software component may comprise a computer readable medium. Software is logical and a computer readable medium would be normally defined as physical. Therefore, it is unclear how, for example, software could comprise, or be made partially of, tangible items such as a compact disc.

***Claim Rejections - 35 USC § 101***

14. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

15. Claims 1-13 are rejected under 35 U.S.C. 101.

16. As to claims 1-5, Applicant is claiming a software component comprising computer executable instructions embodied on a computer readable medium. The language used by Applicant raises 35 U.S.C. 112, second paragraph as discussed above. Additionally, Applicant is not claiming the computer readable medium, but rather the software component. A

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software component does not fall into one of the four statutory classes of invention: process, machine, manufacture, or composition of matter.

17. As to claims 6-13, a PACS network including a software component fails to fall into any of the four statutory classes of invention: process, machine, manufacture, or composition of matter. The PACS network is not defined in terms of any concrete structure and may be interpreted as consisting merely of software components and/or other logical definitions. Additionally, Applicant's amendment to add a logic device does not render the claim statutory. A logic device may also be interpreted as a software component and/or other logical definitions.

***Claim Rejections - 35 USC § 103***

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brandt et al. (Brandt), U.S. Patent No. 5,875,327, in view of Cooke, Jr. et al. (Cooke), U.S. Patent No. 6,574,629 B1.

20. As to claim 14, Brandt discloses a method of offering an application to a network integrator (Fig. 1, item 28; Fig. 3; Fig. 7, item 29; Abstract, ln. 5-12; Col. 6, ln. 10-15), the method comprising:

providing a first version of the application contained in a high-level software component (Fig. 2; Col. 9, ln. 9-14);

providing a second version of the application contained in a plurality of lower-level software components (Fig. 2; Col. 9, ln. 9-14); and

allowing the integrator to decide between use of the different versions (Col. 2, ln. 58 – Col. 3, ln. 5) for integrating the application into a network (Col. 3, ln. 9-15).

Brandt is silent on the application being a medical-imaging data visualization application and the network being a PACS network.

However, Brandt's teachings are directed to a general network and the advantages of Brandt's teachings apply as well to a PACS network as they do a generic network. Namely, Brandt's teachings of integration of applications provides for the removal of conflicts (Col. 2, ln. 65 – Col. 3, ln. 5) and the ability for an administrator or central authority to determine



the preferences and/or settings of other systems when desired (Col. 9, ln. 14-25) are advantageous regardless of network type.

Also, Cooke discloses the application being a medical-imaging data visualization application (Abstract; Col. 7, ln. 49-54) and the network being a PACS network (Col. 7, ln. 30-34).

The advantage of the application being a medical-imaging data visualization application and the network being a PACS network is that medical images may be shared and viewed across a local or wide area network (Cooke: Col. 1, ln. 16-38).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Brandt by including a medical-imaging data visualization application and a PACS network as taught by Cooke in order to gain the above-mentioned advantage.

21. As to claim 15, Brandt and Cooke disclose the invention substantially as in parent claim 14, including the high-level software component is configured to function as a model component in a model-view-controller software architecture (Brandt: Fig. 2; Col. 9, ln. 9-25), and has an interface having a set of user interface control parameters (Brandt: Col. 9, ln. 18-21) and a set of data handling parameters (Brandt: Col. 5, ln. 45-48).

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22. As to claim 16, Brandt and Cooke disclose the invention substantially as in parent claim 15, including the data handling parameters are DICOM format data handling parameters (Brandt: Col. 5, ln. 45-48; Cooke: Col. 7, ln. 30-34).

23. As to claim 17, Brandt and Cooke disclose the invention substantially as in parent claim 14, including at least a subset of the lower-level software components relate to underlying technical functions of the application (Brandt: Col. 5, ln. 45-55).

24. As to claim 18, Brandt and Cooke disclose the invention substantially as in parent claim 14, including providing a third version of the application contained in a plurality of intermediate-level software components (Brandt: Fig. 2).

25. As to claim 19, Brandt and Cooke disclose the invention substantially as in parent claim 18, including providing at least a fourth version of the application contained in a plurality of software components of a different level (Brandt: Fig. 2).

26. As to claims 1 and 6, the claims are rejected for the same reasons as claims 14-15 above.

27. As to claims 2 and 7, the claims are rejected for the same reasons as claim 16 above.

28. As to claim 3, Brandt and Cooke disclose the invention substantially as in parent claim 1, including the software component is a sub-component of a pre-existing data visualization application (Brandt: Fig. 2; Col. 9, ln. 9-14; Cooke: Abstract; Col. 7, ln. 49-54).

29. As to claim 4, Brandt and Cooke disclose the invention substantially as in parent claim 3, including the software component includes a software wrapper, the software wrapper being configured to map the sets of parameters of the interface to parameters appropriate for the sub-component (Brandt: Col. 9, ln. 9-25).

30. As to claim 5, Brandt and Cooke disclose the invention substantially as in parent claim 1, including the user interface control parameters include preset parameters (Brandt: Col. 9, ln. 18-21).

31. As to claim 8, Brandt and Cooke disclose the invention substantially as in parent claim 6, including the PACS network including a specific glue bridge software component, the specific glue bridge being configured to accommodate non-standard aspects of the PACS network (Brandt: Col. 4, ln. 43-55).

32. As to claim 9, Brandt and Cooke disclose the invention substantially as in parent claim 8, including the non-standard aspect of the PACS network include a non-standard data format (Brandt: Col. 4, ln. 43-55; Col. 5, ln. 45-55).

33. As to claim 10, Brandt and Cooke disclose the invention substantially as in parent claim 9, including the non-standard data format is a compressed data format (Brandt: Col. 5, ln. 45-55; Cooke: Col. 13, ln. 61 – Col. 14, ln. 4).

34. As to claim 11, the claim is rejected for the same reasons as claim 9 above.

35. As to claim 12, Brandt and Cooke disclose the invention substantially as in parent claim 11, including the non-standard data handling relates to proprietary grouping of data (Col. 1, ln. 39-44).

36. As to claim 13, Brandt and Cooke disclose the invention substantially as in parent claim 6, including the PACS network including a dispatcher software component, the dispatcher being configured to link multiple software components corresponding to multiple

software applications to the PACS network via a common interface (Brandt: Fig. 1-2; Cooke: Fig. 1).

### ***Conclusion***

37. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

38. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian P. Whipple whose telephone number is (571)270-1244. The examiner can normally be reached on Mon-Fri (9:30 AM to 6:00 PM EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on (571) 272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Brian P. Whipple  
/B. P. W./  
Examiner, Art Unit 2152  
6/5/08

/Bunjob Jaroenchonwanit/  
Supervisory Patent Examiner, Art Unit 2152